

TENNESSEE DEPARTMENT OF MENTAL HEALTH & DEVELOPMENTAL DISABILITIES

- 2006 LEGISLATIVE SUMMARY -



TDMHDD LEGISLATION

Public Chapter	TDMHDD Description
674	<p>Modifies definition of "indigent person" for persons served by programs of TDMHDD and the division of mental retardation services. Expands the base from which to determine indigence, beyond a person's property and estate, to include assets and income. Allows the state to assess costs to people who have income but do not have property or an estate.</p> <p>Amends T.C.A. Section 33-1-101. Effective: May 15, 2006</p>
619	<p>Substitutes the federal SSI payment standard for the \$600 monthly income limit for a resident so that a supportive living facility for the mentally ill may receive support payments for that resident. Makes it unnecessary to increase a fixed income limit in the future because of Social Security Cost of Living adjustments (COLA). Allows payments to be made for residents, who were disqualified after December 31, 2005 because of the COLA to the federal SSI payment standard.</p> <p>Amends T.C.A. Section 12-4-330. Effective: May 4, 2006</p>

MENTAL HEALTH OR DEVELOPMENTAL DISABILITY RELATED LEGISLATION

Public Chapter	TDMHDD Description
812	<p>Requires TDMHDD, in conjunction with community stakeholders, to recommend options for access to non-emergency behavioral health services for individuals in the state who are uninsured. Recommendations are to be submitted to the House Health and Human Resources Committee and the Senate Health and Welfare Committee by November 20, 2006.</p> <p>Effective: June 2, 2006</p>
846	<p>Allows a person employed by a personal support agency licensed under Title 33, Chapter 2, Part 4, to administer non-injectable medications upon a written waiver of liability signed by the client or such person's authorized representative. Requires that those administering medication receive eight (8) hours of training by a licensed nurse.</p> <p>Amends T.C.A. Title 63, Chapter 7 Effective: July 1, 2006</p>

MENTAL HEALTH OR DEVELOPMENTAL DISABILITY RELATED LEGISLATION, CONTINUED

Public Chapter	TDMHDD Description
1008	<p>Specifies that the present law governing forensic services for persons with mental retardation are to be administered by the commissioner of finance and administration or the commissioner's designee.</p> <p>Amends T.C.A. Section 33-5-401. Effective July 1, 2006</p>
761	<p>Increases the total number of beds in ICF/MR facilities by forty beds per year for the next four (4) years resulting in a maximum of eight hundred twenty-eight beds by July 1, 2009. Requires DMRS to appoint a nine person taskforce to review oversight, utilization, and future need for ICF/MR services and make recommendations to the general assembly and governor by June 30, 2007.</p> <p>Amends T.C.A. Sections 33-1-309 and 71-5-105(b) Effective Date: July 1, 2006</p>
897	<p>Criminal Offenses - Sexual battery is expanded to include victims who are mentally defective, mentally incapacitated or physically helpless.</p> <p>Amends T.C.A. Section 39-13-527. Effective: July 1, 2006</p>
604	<p>Establishes Division of Mental Retardation administered task force to conduct statewide assessment to study needs of persons with a developmental disability other than mental retardation for whom comprehensive home and community based services do not exist and to develop plan to provide cost-effective home and community-based services for such persons.</p> <p>Amends T.C.A. Section 33-5-212 Effective: July 1, 2006</p>

DEPARTMENTAL SUNSET LEGISLATION

Public Chapter	TDMHDD Description
1000	<p>Extends the Department of Mental Health and Developmental Disabilities, which was to terminate on June 30, 2006, by one year or such time as the joint governmental review evaluation committee holds a hearing and the general assembly takes action.</p> <p>Amends T.C.A. Section 4-29-104 Effective: June 27, 2006</p>
1000	<p>Extends the Department's State Planning & Policy Council, which was to terminate on June 30, 2006, by one year or such time as the joint governmental review evaluation committee holds a hearing and the general assembly takes action.</p> <p>Amends T.C.A. Title 4, Chapter 29. Effective: June 27, 2006</p>

HEALTH INSURANCE / TENNCARE

Public Chapter	TDMHDD Description
915	<p>Requires TennCare Bureau to competitively procure an annual study designed to accurately assess the cost of dispensing a prescription in a retail or community pharmacy setting to a TennCare enrollee. The study shall include retrospective analyses designed to provide a current estimation of the cost to dispense. The contracted researchers (from a postsecondary academic institution) shall report their findings to the General Assembly, Finance and Administration (F&A), and TennCare on or before January 15th of each calendar year beginning in 2007.</p> <p>Amends T.C.A. Section 4-3-1013 Effective: Subject to attaining funds.</p>
961	<p>Requires the state to identify federal matching funds and any applicable federal waiver that would enable the state to provide additional benefits or subsidies to assist with the payment of premiums or co-payments to persons who are eligible for the Access Tennessee program. This shall include individuals with incomes below 200% of the federal poverty level.</p> <p>Amends T.C.A. Title 8 and Title 71. Effective: June 21, 2006</p>

894	<p>Requires insurance plans offering benefits related to neurological disorders to provide similar benefits for Autism Spectrum Disorders. Coverage is only guaranteed through age 12. Benefits provided for treatment of autism spectrum disorders shall be subject to deductible and co-payment requirements and benefit limits which are no more stringent than those established for the treatment of other neurological disorders.</p> <p>Amends T.C.A. Section 56-7-23 Effective: July 1, 2006 with plan compliance by January 1, 2007.</p>
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COVER TENNESSEE

Public Chapter	TDMHDD Description
867	<p>Establishes Cover Tennessee, a five prong approach to provide insurance coverage to uninsured Tennesseans. Below is a brief summary. For more information, please visit www.tennessee.gov.</p> <p>CoverTN: Creates a partnership between the state, private employers and individuals to offer guaranteed, affordable, basic health coverage for working Tennessean who are uninsured. To qualify, individuals must be under 200% of the Federal Poverty Level. Premiums are expected to be \$150 shared among the participant, employer and the state. Premiums will vary by age, tobacco usage and weight. Benefits will likely be targeted towards most needed services such as physician, hospital, pharmacy, etc.</p> <p>AccessTN: Creates a comprehensive high-risk health insurance pool or CHIP program, allowing uninsurable Tennesseans to buy insurance at around 150% of standard market rates. Plan benefits will be similar to that of the TN State Employee Health Insurance Plan. {For example, an average premium for a single policy for a healthy Tennessean may be \$238/mont. As an uninsurable individual, one might pay as high as \$715/month under a HIPAA plan. AccessTN would likely be cost \$358 - \$477/month with additional premium assistance available for low income Tennesseans.}</p> <p>CoverKids: Creates a Statewide Children's Health Insurance Program or SCHIP. Program is aimed towards children under 250% of the Federal Poverty Level (FPL). Buy-in will be available for those over 250% FPL. Benefits will be similar to the TN State Employee Health Insurance Plan which includes mental health services. An SCHIP receives a \$3 federal to \$1 state match from the Federal Government. Copays will be reduced in an effort to encourage prevention.</p> <p>CoverRX: Provides affordable access to base formulary of generics and selected name brand pharmaceuticals; discount for all other medications. Continues current mental health safety net programs.</p> <p>ProjectDiabetes and Coordinated School Health: Expands an educational pilot project to K-8 schools across the state to teach healthy lifestyles and eating habits. Also launches a grant program to expand treatment options focusing on reducing Type II Diabetes and obesity.</p> <p>Amends T.C.A. Title 4; Title 56 and Title 71. Effective: June 5, 2006</p>

PROFESSIONAL OCCUPATION LEGISLATION

Public Chapter	TDMHDD Description
765	<p>Occupational Therapists: Revises licensure and practice requirements for occupational therapists. This bill increases the per diem allowance to \$100 for Board members. Removes reference of the American Occupational Therapy Association (AOTA) with regard to academic requirements and supervised fieldwork experience, instead requiring that the applicant complete the requirements of a program accredited by ACOTE or its predecessor organization as well as the period of supervised fieldwork experience required by ACOTE. This bill requires applicants with limited permits to take the examination within 90 days of receipt of the permit. It also makes the supervising occupational therapist, under whom an assistant works, responsible for all services provided by the occupational therapy assistant. The board of occupational and physical therapy examiners must adopt rules governing the supervision of persons to whom a limited permit has been issued and rewrites the exemption provisions for five (5) groups of people.</p> <p>Violation of the code of ethics adopted by the board of occupational and physical therapy examiners is added to the list of violations subjecting a licensee to discipline by the committee. It is a Class B misdemeanor for a person who is not licensed as an occupational therapist or occupational therapy assistant to use the letters "LOT" and instead adds the acronyms "OTA," "OTA/L" and "OT/L." It allows the committee to grant a license to an applicant presenting proof of current certification in another state or territory and possessing equivalent or superior educational and experiential qualifications to those required in this state. It would also allow a person licensed by the committee of occupational therapy to file for inactive status. Authorizes physicians to delegate routine tasks associated with non-treatment aspects of occupational therapy practice to persons who are not licensed as occupational therapists.</p> <p>Specifies that the statutory regulations and administrative rules for occupational therapists and assistants will not prevent or restrict the practice, services or activities of any person who is certified by the National Council for Therapeutic Recreation Certification as a Certified Therapeutic Recreation Specialist while engaged in the profession of recreation therapy.</p> <p>Amends T.C.A. Title 63, Chapter 13. Effective: May 26, 2006</p>

PROFESSIONAL OCCUPATION LEGISLATION, CONTINUED

Public Chapter	TDMHDD Description
571	<p>Requires the Department of Health to enter a Memorandum of Understanding (MOU) with the Tennessee Primary Care Association, the Tennessee Hospital Association, and the Tennessee Rural Health Recruitment and Retention Center to work cooperatively with respect to the annual Health Professional Shortage Area (HPSA) designation process.</p> <p>Requires an annual report from Finance and Administration (F & A) and other state agencies working with the safety net that outlines access and array of services offered in the safety net. Report will also detail access to services in rural and underserved areas.</p> <p>Amends T.C.A. Title 68 Effective: May 1, 2006</p>
558	<p>Allied Health Boards are authorized to enter into grants, agreements, scholarships or other arrangements with statewide nonprofit agencies or other state agencies for the purpose of evaluating and guiding the development of the education, distribution, and availability of the allied health care workforce under the regulation of that board to provide a basis for improving the delivery of quality health care.</p> <p>Amends T.C.A. Title 63 Effective: July 1, 2006</p>

COMMUNITY ISSUES

Public Chapter	TDMHDD Description
675	<p>Specifies that whenever the education of a child becomes the state's direct responsibility for any reason, the Commissioner of Education shall pay to the state agency responsible for the child or as may be otherwise directed in the general appropriations act, an amount equal to the state education funds, plus the local education funds which would otherwise be expended on the child had the child not been placed under state care.</p> <p>Amends T.C.A. Title 49, Chapter 3 Effective Date: July 1, 2006</p>
913	<p>Reduces maximum tuition charged to elderly citizens with disabilities auditing courses to \$45 per quarter--per class, or \$70 per semester--per class.</p> <p>Amends T.C.A. Title 49, Chapter 7 Effective: June 20, 2006</p>

COMMUNITY ISSUES, CONTINUED

Public Chapter	TDMHDD Description
864	<p>Sets up the Responsible Vendors Act which will seek to provide voluntary additional training for clerks selling alcoholic beverages. Sets up new procedures for dealing with vendors who sell alcohol to minors. Requires mandatory carding of all people, regardless of age, before purchasing alcohol.</p> <p>Amends T.C.A. Title 39, Chapter 15 & Title 57, Chapter 5 Effective: July 1, 2007</p>
860	<p>Simplifies process by which some felons may have voting rights restored. Provides a Certificate of Voting Rights Restoration stating that a felon is qualified to apply for a voter card. The certificate must be provided to local election officials for rights to be fully restored. The act excludes those persons convicted of first-degree murder, aggravated rape, treason, or voter fraud from being eligible. Also requires that an individual be current on all child support payments before rights may be restored.</p> <p>Amends Tennessee Code Annotated, Title 40, Chapter 2 Effective: July 1, 2006</p>
919	<p>Nina Norman Prescription Drug Act: Allows charitable clinic pharmacies to accept and redistribute medications donated by a hospital, nursing home, home care organization, residential HIV supportive living facility, or residential hospice facility upon a patient's or their designated representative's request. Excludes controlled substances from being eligible for donation and redistribution. Medications may only be donated to those below 200% of FPL. Requires the Board of Pharmacy to develop rules on specific participation in the pilot project.</p> <p>Amends T.C.A. Title 63, Chapter 10. Effective July 1, 2006</p>
768	<p>Clarifies that information received by Pharmacy Peer Review Committees is confidential. Allows non-confidential information to be compiled and disclosed for research and patient safety purposes. Encourages pharmacies to develop and strengthen quality assurance programs to identify areas for improvement.</p> <p>Amends T.C.A. Title 63, Chapter 10 Effective: May 26, 200</p>
564	<p>Clarifies that a pharmacist may fill a prescription with a brand name drug if the patient is paying 100% of the cost, or when the patient has prescription coverage and is willing to pay the price difference between the name brand and the generic.</p> <p>Amends T.C.A. Section 53-10-2. Effective July 1, 2006</p>

DISASTER PREPAREDNESS

Public Chapter	TDMHDD Description
560	<p>Tennessee Emergency Management Agency (TEMA) - Enacts the "Tennessee State Emergency Fund Act" which empowers the governor to provide, by executive order, limited liability protection for facts and omissions to those licensed, certified, or authorized healing professionals who render health care services within the scope of their licensure during the course of a declared emergency. Limited liability can also be granted to any medical clinic or physician's office that receives and treats a patient affected by the event causing the governor to declare an emergency. This limited liability would not apply in cases of gross negligence or willful misconduct. The duration of the executive order would be no more than 30 days, though it could be extended for additional 30-day intervals as deemed appropriate by the governor.</p> <p>It also exempts any voluntary health care providers that participate in the emergency management assistance compact or southern regional emergency management assistance compact from liability in providing health care to victims or evacuees of a declared catastrophic or major disaster, so long as such health care services are provided within the limits of the provider's license and any resulting damages were not the result of gross negligence or willful misconduct. This exemption would apply without need of an executive order. It adds people who are licensed by the department of mental health and developmental disabilities to the health care providers whose civil liability could be limited by executive order during declared states of emergency. It also limits the period during which civil immunity and limited liability under this bill could be extended beyond the initial 30 day period to one additional 30 day period instead of unlimited additional 30 day periods.</p> <p>Amends T.C.A. Title 58, Chapter 2, Part 1 Effective: April 24, 2006</p>

STATE EMPLOYEE LEGISLATION

Public Chapter	TDMHDD Description
876	<p>Bans smoking in all state buildings effective May 17, 2006. Allows the Department of Correction to fully implement in correctional facilities by July 1, 2007. Does not include smoking rooms and cabins in state parks.</p> <p>Amends T.C.A. Title 4 Effective July 12, 2006</p>
870	<p>Pensions and Retirement Benefits - Allows state treasurer and commissioner of finance and administration to permit state employees to designate contributions to the deferred compensation plan as Roth 401(k) contributions; re-distributes annuity to surviving children of deceased compensation plan member where spousal beneficiary is also deceased; revises various other provisions governing pension and compensation programs for public employees.</p> <p>Amends T.C.A. Titles 3 and 8. Effective June 5, 2006</p>

JOINT RESOLUTIONS

Public Chapter	TDMHDD Description
N/A	Urges governor to develop fiscal analysis of services to SPMI and SED children.
N/A	Directs the select committee on children and youth to study the children's mental health system in Tennessee and develop recommendations for its improvement.

LEGISLATION

REFERRED TO STUDY COMMITTEE

Public Chapter	TDMHDD Description
--	Legislation required the Department of Health to develop a program by which loans would be provided to individuals who want to participate in alcohol and drug treatment. Referred to House Health and Human Resources Summer Study.
--	Limited universal testing or screening of juveniles under federal mental health programs. Referred to House Health and Human Resources Summer Study.
--	Enacted the "Schools Against Violence in Education Act" also known as the "SAVE Act." Referred to House Education Summer Study.
--	Required juveniles who were court ordered to attend or voluntarily attend an inpatient mental health treatment program to present a certificate of completion to the school principal two days prior to resuming or enrolling in school; authorized schools to deny enrollment for failure to submit certificate to school principal; requires hospital or treatment resource to provide a certificate of completion to children completing treatment programs. Returned to House Education.

RESOURCES:

Tennessee General Assembly: <http://www.legislature.state.tn.us/>

Tennessee Code Annotated: <http://www.michie.com/>

Tennessee Secretary of State Publications Division: <http://www.state.tn.us/sos/acts/index.htm>

TDMHDD Website: <http://www.state.tn.us/mental/>

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